

REMARKS

Claims 1-3 and 7-14 are pending in the present application. Claim 3 has been amended to place the claim in conformance with U.S. practice. New claim 14 has been added to claim the specific embodiment previously present in claim 3. No new matter has been added by the present amendment.

The Examiner has required election in the present application between:

Group I, claims 1, 2 and 7-13, drawn to a method for performing electrophysiological measurements wherein the sequence information is not stored on computer disk;

Group II, claims 1-3, drawn to a method for performing electrophysiological measurements wherein the sequence information is stored on computer disk.

For the purpose of examination of the present application, Applicants elect, with traverse, Group I, Claims 1, 2 and 7-13.

The Examiner has required an election in the present application between:

Species Test Agents, illustrated in claim 10;

Species Animal Cells, illustrated in claim 12.

For the purpose of examination of the present application, Applicants elect Species small organic molecules and Chinese Hamster Ovary cells, illustrated in claims 10 and 12, with traverse.

Claims 10 and 12 are directed to the elected species. As acknowledged by the Examiner, at least claim(s) 1, 10 and 12 are generic.

Restriction with Traverse

Applicants respectfully traverse the current restriction/election of species requirement.

Unity of invention exists where there is a technical relationship among the claimed inventions involving one or more of the same or corresponding special technical features. The expression “special technical feature” is defined in PCT Rule 13.2 as meaning those technical features that define a contribution which each of the inventions, considered as a whole, makes over the prior art. Lack of unity of invention “should neither be raised nor maintained on the basis of a narrow, literal or academic approach.” See MPEP § 1850(II.).

Applicants believe that the Examiner is incorrect in separating the methods with and without a computer disc. The claimed method is for performing electrophysiological measurements. As part of this method, it is merely one possible feature that the sequence information is stored on an information carrier, such as a computer disc.

Claim 2 relates to the step of sequencing the genetic material and does not mention that the sequence information is stored in any particular manner. Therefore, Claim 3 in which the sequence information is stored on a disc serves to narrow the scope of the claims. The unifying inventive concept for all of the claims is in the application of measuring electrophysiological changes due to gene expression and not where the sequence data is stored.

With regard to the election of species, Applicants believe that the scope of the claims should not be limited to only one compound or cell type, as all are equally suitable for use in this method. Regardless, the election of species should serve as a starting point for search and examination purposes. Upon the indication of allowable subject matter for the elected species, the Examiner is required to expand her search to include other non-elected species with the intent of finding the generic claim(s) ultimately allowable.

Given the above remarks, Applicants respectfully request that the Examiner reconsider the pending restriction/election of species requirement and examine all of the pending claims.


Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Gerald M. Murphy, Jr., Registration No. 28,977 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

- ☐ Attached is a Petition for Extension of Time.
- ☐ Attached hereto is the fee transmittal listing the required fees.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

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Respectfully submitted,


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